

Meeting of 2005-8-23 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 23, 2005 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk
 COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by the Pastor Bill Todd, Centenary United Methodist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Rex Givens, Ward Two
 Janice Drewry, Ward Three
 Keith Jackson, Ward Four
Robert Shanklin, Ward Five
Jeffrey Patton, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None

PRESENTATION OF CITIZEN OF THE MONTH TO JOHN BLAIR

Edwina Scott, Mayor s Commission on the Status of Women, presented the award for the Citizen of the Month for August 2005 to John Blair. She stated Mr. Blair is being honored for the dedicated service that he has provided to this community. He has given countless hours to projects such as the Southwest Medical Center patient escort service, Boy Scouts and the Eisenhower Village crime watch. He is a recipient of the first Humanitarian Award, God and Country Award and United Methodist Church award for his work with young people.

Mayor Purcell presented a Certificate of Congratulations from the State of Oklahoma, a Certificate of Commendation from the Mayor s Office, and a Mayor s Do What s Right coin.

Mr. Blair thanked everyone for selecting him as citizen of month. He stated he loves working with people and thanked those in attendance.

PRESENTATION OF EMPLOYEE OF MONTH TO LEANN THORNTON, TELECOMMUNICATOR IN THE EMERGENCY COMMUNICATIONS DIVISION OF THE POLICE DEPARTMENT FOR THE MONTH OF AUGUST.

Chief Ronnie Smith, Lawton Police Department, presented the employee of the month, Leann Thornton. He stated she is an excellent employee. She is a dedicated, hard working dispatcher who also trains other dispatchers. Mayor Purcell presented a plaque, certificate of honor, two days of nonchargable leave, script money from Chamber merchants and a Mayor s Do What s Right coin.

CERTIFICATE OF APPRECIATION TO DANA PATTERSON.

Mayor Purcell stated he would like to recognize Dana Patterson for saving a life. He read an Award of Commendation from the City of Lawton and from the Governor of Oklahoma for taking immediate action when a fellow citizen went into cardiac arrest at a local movie theater.

Ms. Patterson stated that it is very important for all citizens to know CPR.

Mayor Purcell presented a Mayor s coin to Capt. John Deboard who was one of the first people to arrive and help in the rescue effort.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF JULY 12 AND JULY 26, 2005.

MOVED by Warren, SECOND by Givens, to approve the Minutes of July 12 and July 26, 2005. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: Mayor Purcell requested separate consideration for items 2 and 17.

MOVED by Warren, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of items 2 and 17. AYE: Drewry, Jackson, Shanklin Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Mary M. Dye in the amount of \$15,090.52 and Richard Bennett in the amount of \$768.19. Exhibits: Legal Opinion/Recommendation; **Resolution No. 05-145** and **Resolution No. 05-146**.

2. Consider the following damage claims recommended for denial: Roy & Svea Penepacker in the amount of \$389.60 and Charles & Linda Bledsoe in the amount of \$495.00. Exhibits: Legal Opinions/Recommendations.

Vincent stated that his staff finds no negligence on the part of the city employee in the Bledsoe claim. The allegation is failure to inform of what restrictions would be in place if they were granted a variance and subsequent permit. There was a restriction on how far they could build out from the house that included the roofline. This did not allow them to build the structure.

Judge Bledsoe stated he would like to go through his perspective. He stated that he and his wife bought the house at 616 NW Waterford in 1992. In January of this year they decided to build a small office on the south end of the home where there is a tile patio and an existing roof. They were denied a building permit because they had not provided for the 20 foot rear yard from the edge of the building to the property line as is required in all R-1 zoning districts. They were told that they could appeal to the Board of Adjustment and build a smaller room. The Acting City Planner looked at their appeal and said everything was fine and saw no reason why the appeal would not be approved. They filed the appeal at a cost of \$200. They had to give notice to all neighbors living within a 300 foot radius which cost \$190 to an abstract company. They notified the Acting City Planner that they would be out of town when the appeal was heard. Their contractor attended the hearing and notified them that their appeal was approved. He said that during the hearing the Acting City Planner made a comment that the existing roof and patio should be removed before they built on the additional office. This would greatly increase the cost of the addition. They contacted the License and Permit Center to inquire if the appeal had any stipulations regarding the existing roof and were told no, so they proceeded to pay another \$105 for the building permit. When they returned they learned from their builder that the building permit stated the addition could not extend more than six feet from the existing structure to include the roof line. He stated this was never mentioned to them from anyone in City Hall. This would require the removal of the pre-existing roof. At this point they decided not to build the new addition because the space would be unacceptable in size and excessive in cost.

Shanklin stated that when they met to go through Section 18 of the City Code they decided you could cover 60% of your lot, and now he sees 30%.

Vincent stated there is a setback requirement in a back yard just like the 25-foot building line in the front yard. There is a minimum 20-foot building line in the back yard and Judge Bledsoe wanted to extend his addition into that 20-foot space. The most they can go by code is 30% into the 20-foot setback. It has nothing to do with rear yard coverage, but how close you can be to your property line.

Shanklin stated that everything he has should be torn down because he built a foot away from the property line.

Vincent stated that he would have been grandfathered in.

Shanklin stated they discussed this issue and it never got changed.

Vincent stated his property sits 40 feet from the back property line. The area between the 20-foot set back requirement and where his house is, he can only cover 60% of it. They are talking about getting into the additional 20%. Judge Bledsoe's house is a zero lot line patio home. He has a different situation than the normal house because of the way it is built on the lot.

Givens stated the question before the City Council is not whether he should have been able to do it or not, but whether he was given the run around, which it sounds as though they were.

Shanklin questioned what difference inches would have made.

MOVED by Drewry, SECOND by Shoemate, to approve the claim of Charles and Linda Bledsoe in the amount of \$495.00.

AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED. Note: this action includes adoption of **Resolution No. 05-147** necessary for payment of the claim.

Shanklin stated that Mr. Penepacker is a citizen of Lawton. He is not the enemy and we have paid these in the past. If they pay one, they should pay them all.

Vincent stated that he does recommend paying the \$340.40 on the separate incident, but if this had occurred after April 27th of this year, by City Council policy, this could not be paid.

MOVED by Shanklin, SECOND by Drewry, to approve the claim of Roy and Svea Penepacker in the amount of \$340.40.

AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in filing and making payment of the judgment in the Workers' Compensation case of William A. Looney in the Workers' Compensation Court, Case No. 2004-15346-H. Exhibits: **Resolution No. 05-148**.

4. Consider releasing a mowing and clearing lien in the amount of \$766.80 on the property located at 1813 SW E Avenue. Exhibits: None

5. Consider ratifying the City Attorney's action in directing the City Clerk to release a lien in the amount of \$565.00 on the property located at 1410 NW Andrews. Exhibits: None

6. Consider the approval of an Agreement with Independent School District #8, Comanche County Lawton Public Schools, for the disposal of waste from the demolition of various structures at the original Lawton High School. Exhibits: Draft Agreement.

7. Consider issuing a revocable permit for the erection of a sign and the parking of vehicles upon the street easements along the east side of Sheridan Road and south side of Bishop Road for Bishop School located at 2204 SW Bishop Road. Exhibits: Application and site plan. Revocable Permit is on file in the City Clerk's Office.

8. Consider adopting a street light resolution to authorize the installation of two (2) street lights on SE Redbud Place in Pebble Creek Addition Part 3. Exhibits: **Street Light Resolution No. 436**.

9. Consider authorizing the Mayor to execute a Contract Agreement with the Board of Education of Independent School District No. 8 (Lawton Public Schools), Comanche County, Oklahoma to reconstruct sidewalk, curb, and parking at John Adams Elementary as a part of the NW Ashby Avenue & NW Ferris Avenue Street Reconstruction Project #2005-1. Exhibits: Contract Agreement is on file in the City Clerk's Office.

10. Consider accepting the WWTP Admin Building Re-roofing Project #2005-9 as constructed by Clayco Industries, Inc. DBA Ford Roofing & Sheet Metal and placing the Maintenance Bond into effect. Exhibits: None.

11. Consider acknowledging completion of the Corps of Engineers Meadowbrook Creek Local Flood Control Project as constructed by Wittwer Construction Co., Inc. Exhibits: None.

12. Consider accepting the 2005 CIP Oil/Chip Street Project #2005-10 as constructed by Barnett Paving & Sealing LP and placing the Maintenance Bond into effect. Exhibits: None

13. Consideration of Grant Agreement 3-40-0051-021-2005 for Lawton Ft. Sill Regional Airport. Exhibits: Grant application.

14. Authorize payment of invoice(s) for purchase of signs to Arrow Sign Company in the amount of \$5,050.00. Exhibits: None.

15. Consideration and approval of a resolution approving action taken by the Lawton Water Authority authorizing issuance, Sale and delivery of the Authority's promissory note to the Oklahoma Water Resources Board; Ratifying and confirming a certain lease agreement, as amended; and containing other provisions related thereto. Exhibits: **Resolution No. 05-149**.

16. Consider adopting a resolution relating to General Obligation Bonds for Sewer System Improvements, fixing the amount of bonds to be sold, providing for the maturity of the bonds, fixing the time and place the bonds are to be sold, and authorizing the Clerk to give notice of said sale as required by law. Exhibits: **Resolution No. 05-150**.

17. Consider adopting a resolution relating to General Obligation Bonds for Economic and Community Development, fixing the amount of bonds to be sold, providing for the maturity of the bonds, fixing the time and place the bonds are to be sold, and authorizing the Clerk to give notice of said sale as required by law. Exhibits: **Resolution No. 05-151**.

Rick Endicott, Finance Director, stated there is a scrivener s error on page 86 of the agenda. Section 2 should read August 24, 2004 instead of 13th day of September, 2004 and also Section 2 should read September 13, 2005 instead of 23rd day of August, 2005.

MOVED by Shanklin, SECOND by Jackson, to approve Resolution No. 05-151 as amended, relating to General Obligation Bonds for Economic and Community Development. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

18. Consider approving and authorizing a credit adjustment to Eva Johnson for her utility account #1704085065 for service at 1132 NW Maple Avenue for an undetectable, underground leak on her service line. Exhibits: Statement dated 7/21/05 from Hodges Plumbing and Statement dated 7/25/05 from Hodges Plumbing.

19. Consider awarding contract for SBC, PLEXAR-Custom Service Agreement. Exhibits: Division recommendation. Contract is on file in the City Clerk s Office.

20. Consider awarding contract for Banking Services. Exhibits: Abstract of bids and department recommendation.

21. Consider approving the following contract extension for Long Distance Telephone Service (RFPCL04-065) with SBC. Exhibits: None.

22. Consider approving the following contract extension: Property Insurance (CL05-001) with Towe, Hester and Erwin, LLC. Exhibits: None

23. Consider approval of payroll for the periods of August 1 - 14, 2005. Exhibits: None.

OLD BUSINESS ITEM:

24. Consider adopting an ordinance amending Section 17-1-3-124, Division 17-1-3, Article 17-1, Chapter 17, Lawton, City Code, 1995, by allowing the City Manager to assign individuals to vacant positions after a three day posting and providing severability. Exhibits: Ordinance No. 05-____.

Jim Scholes, Human Resources Director, stated there is a correction to clean up some language. In Section E of the ordinance the words before appointment should be added directly following the words three (3) day posting.

He stated the Employee Advisory Committee requested this clarification be added to the ordinance. Staff and some City Council members met with the EAC to discuss the ordinance.

John Thomas, Chairman of the Employee Advisory Committee, thanked the City Council for tabling this item and giving the EAC a voice on this issue. He stated the main thing they were concerned with was the notification of the employees outside of the department.

Jackson stated he realizes that there has been an agreement reached with the EAC, but he still thinks that the City has operated successfully for a number of years with the current policy and he feels this change is not needed.

MOVED by Patton, SECOND by Warren, to adopt **Ordinance No. 05-69** as amended, waive the reading of the ordinance, read the title only. AYE: Haywood, Warren, Shoemate Givens, Drewry, Patton. NAY: Jackson, Shanklin. None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-69

An ordinance pertaining to personnel policies and procedures amending Section 17-1-3-124, Division 17-1-3, Article 17-1, Chapter 17, Lawton City Code, 1995, by allowing the City Manager to assign individuals to vacant positions after a three day posting and providing for severability.

NEW BUSINESS ITEMS:

25. Hold a public hearing and consider an ordinance closing a public utility easement on Lots 27 and 28, Block 8, Fields and Dunning Addition, also known as 1119 NW Cherry Avenue. Exhibits: Ordinance No. 05-____, Application, Location Map, Survey and Council Policy 5-1.

Debra Jones, Acting Planning Director, stated an application to close a public utility easement located at 1119 NW Cherry Avenue has been submitted by Harold and Brenda Beaty. The Beatys own Lot 27 and the West half of Lot 28, Block 8, Fields and Dunning Addition. There is a public utility easement located on the east 4 feet of Lot 27 and the west 4 feet of Lot 28. The applicants are requesting the easement be closed to clear the title so the property can be sold. On July 12, 2005 the City Council set the date of August 23 to hold the public hearing on the request.

Notice of public hearing was mailed on July 22, 2005 to property owners within 300 feet of the requested area and to utility companies, and proper notice was published in *The Lawton Constitution* on August 7, 2005.

Initially, there were objections submitted by several utility companies to closing the easement. This easement is used to access the utility easement which runs east/west along the rear of the lots in this block. The applicants have agreed to dedicate a 10-foot access easement on the west 10 feet of the east 15 feet of their property. The utility companies have stated they have no objection as long as another access easement is granted. Acceptance of the access easement is a separate agenda item.

Shanklin questioned if this really required a public hearing.

Vincent stated that an ordinance to close a public right of way or easement requires a public hearing.

PUBLIC HEARING OPENED.

Joe Hamlin, representing the owners, stated there is a utility easement running through the house which interferes with the marketability of the title.

PUBLIC HEARING CLOSED.

MOVED by Givens, SECOND by Drewry, to adopt **Ordinance No. 05-70** waive the reading of the ordinance, read the title only. AYE: Warren, Shoemate Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 05-70

An ordinance closing a utility easement located on property in Fields and Dunning Addition addressed as 1119 NW Cherry Avenue, more particularly described in section one hereof.

26. Consider accepting a Permanent Access Easement from Harold and Brenda Beaty on the west 10 feet of the east 15 feet of the West Half of Lot 28, Block 8, Fields and Dunning Addition, also known as 1119 NW Cherry Avenue. Exhibits: Permanent Access Easement.

MOVED by Givens, SECOND by Jackson, to accept the Permanent Access Easement for the west 10 feet of the east 15 feet of the West Half of Lot 28, Block 8, Fields and Dunning Addition. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

27. Consider approving an ordinance pertaining to alcoholic beverages amending Section 4-2-3-269, Division 4-2-3, Article 4-2, Chapter 4, Lawton City Code, 1995, by adding a provision that allows retail dealers to obtain a special permit for multiple bars and/or service units within the same enclosed area or within the general vicinity of each other for events held outside a physical structure for a limited period of time, providing for severability and declaring an emergency. Exhibits: Ordinance No. 05-____.

Vincent stated this is a clean up ordinance in which the state recently enacted statutory amendments to the ABLE Commission Act that allows multiple bars in one facility and instead of licensing each bar, there can be temporary licenses.

Shanklin questioned why this had to be declared an emergency.

Vincent stated because it is already a state law.

Shoemate questioned if this means that existing bars can now have a bar outdoors.

Vincent stated that establishments would need to go back and amend their license premise application if they originally did not include the outdoors. These are not for permanent multi-unit bars, but are temporary.

MOVED by Givens, SECOND by Warren, to adopt **Ordinance No. 05-71** waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Warren, Givens, Drewry, Jackson, Shanklin, Patton. NAY: Shoemate, Haywood. None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 05-71

An ordinance pertaining to alcoholic beverages amending Section 4-2-3-269, Division 4-2-3, Article 4-2, Chapter 4,

Lawton City Code, 1995, by adding a provision that allows retail dealers to obtain a special permit for multiple bars and/or service units within the same enclosed area or within the general vicinity of each other for events held outside a physical structure for a limited period of time, providing for severability and declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Uberti thanked the City Council members for their support at the Soldier of the Quarter event.

Shanklin stated he would like to look at the Council Policy that prohibits someone from expanding his house. He will look at the policy and will bring it back. He does not believe that the City has the legal right.

Mayor Purcell thanked the County Commissioners and CCDC who picked up trash from I-44 to Flowermound Road. The week before they had cleaned all of Rogers Lane from I-44 to 67th. Commissioner Kirby stated they would keep doing this. He requested the City Council direct the City Manager to establish a policy with all the appropriate people involved so that they can use municipal prisoners to pick up trash. He said they might have to hire a part time employee to supervise.

Givens stated they need to be conscious that the trustees work for different organizations during the week.

Mayor stated on Friday morning at 8:15 a.m., he would be meeting with the City Manager, City Attorney and the Chief of Police to discuss the issue of security and what policy might be brought to the City Council. He invited any City Councilors to attend.

Mitchell stated the City Planning Commission would conduct a public hearing Thursday at 1:30 p.m. on the stormwater drainage ordinance.

The Mayor and Council convened in executive session at 7:05 p.m. and reconvened in regular, open session at 7:25 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

28. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the evaluation review of Traci Hushbeck, City Clerk, and if necessary, take appropriate action in open session. Exhibits: None.
Mayor Purcell read the title of Item 28 shown above. He said the consensus of the City Council is that Ms. Hushbeck is doing an outstanding job. No action is required in open session.

ADJOURNMENT

There being no further business to consider, the meeting adjourned at 7:27 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

ADJOURNMENT